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C O N F I D E N T I A L SECTION 01 OF 03 BRUSSELS 000318

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SUBJECT: DEPSEC KIMMITT VISIT: MEETING WITH HIGH REP SOLANA
ON IRAN AND IRAQ COMPACT

Classified By: AMBASSADOR C. BOYDEN GRAY FOR REASONS 1.5 (D) AND (E).

SUMMARY

1.(C) On January 23, Deputy Secretary of the Treasury Robert Kimmitt and Ambassador Gray discussed Iran sanctions and the Iraq Compact with High Rep Solana and his senior policy advisor Robert Cooper. As in his meetings with other senior EU officials (reported septels), Kimmitt underscored U.S. expectations that the EU would put in place quickly binding an EU regulation together with a common position which would enable Member States to act together to implement fully UNSC sanctions against Iran. He also expressed appreciation for the GAERC's preliminary conclusion to implement UNSCR 1737 "to ban transactions with and freeze the assets of individuals and entities covered by the criteria in UNSCR 1737." Kimmitt pressed Solana to address the EU's lack of progress in implementing UNSC sanctions against North Korea. Solana confirmed that the January 22 GAERC conclusions signaled the EU "may go beyond" the 1737 annex of designated entities, in order to comply with the spirit as well as the letter of the resolution. Solana and Cooper said they intended to pursue with the Council a step-by-step approach: implementing regulations would incorporate the list of designees contained in the Annex to UNSCR 1737, and an ad-hoc, fact-based mechanism would be created for Member States to update and expand the designations. If additional designations were to be the next step after the approval of the regulations, Kimmitt said he could agree to Cooper's suggestion that the United States temporarily lower its profile vis-a-vis the EU on immediate expansion of the designation list. Solana welcomed U.S.-suggested next steps on completion of the Iraq Compact. END SUMMARY

2.(U) In a cordial and informal forty-five minute meeting January 23, Deputy Secretary of the Treasury Robert Kimmitt, accompanied by USEU Ambassador Gray, USEU Treasury Attach Matthews and USEU poloff (notetaker) met with Javier Solana, European Council High Representative for Common Foreign and Security Policy to discuss implementation of UNSC-mandated Iran sanctions and completion of the Iraq Compact. The High Rep was joined by Director General for External Relations and CFSP Robert Cooper, Special Counselor in the High Rep's Private Office Steve Everts, Transatlantic Affairs Desk Officer Christiane Hoehn, and, Iran Desk Officer Jonas Jonsson.

Iraq Compact Timeline

3.(C) Deputy Secretary Kimmitt said that the new UNSYG Ban Ki-Moon had made completion of the Iraq Compact an immediate priority objective and might raise the issue in his meeting

with Solana the following day. He relayed the USG's suggestion that the SYG convene the Compact Preparatory Group (PG) plus Permreps from non-PG countries for a ministerial meeting in New York in February with a view toward holding a signing conference in March. He indicated that the document itself was complete and noted that the Ambassador would provide Solana with a copy. Solana welcomed this news.

Iran designation process - EU accent on Unanimity and Objectivity

4.(C) Depsec Kimmitt praised the January 22 GAERC conclusions on Iran and noted the exceptional importance of the statement's section calling on member states to "ban transactions with and freeze the assets of individuals and entities covered by the criteria in UNSCR 1737." Solana confirmed unequivocally that the January 22 GAERC conclusions signaled that the EU "may go beyond" the 1737 annex of designated entities list, in order to comply with the spirit as well as the letter of the resolution. Solana indicated that the strength of the new conclusions had exceeded his expectations, and he complimented the German Presidency on its superb handling of this statement.

5.(C/NF) Director General Cooper noted that on January 25, the Council (RELEX Counselors) would commence work on the draft implementation proposal. Cooper himself had briefed PSC Ambassadors on a proposal which would include the 1737 Annex list as a baseline for designations by the EU. Although the details had yet to be determined, he expected EU Member States to support his proposal to approve the current 1737 annex list as well as an ad hoc mechanism to identify and designate entities and individuals in addition to those already named in resolution. He stressed that the designation process had to be based on Member State unanimity

BRUSSELS 00000318 002 OF 003

and objective fact-based evidence. This would help win over skeptical EU Member States as well as ensure standards of evidence that could hold up under any potential court challenge. Solana underscored that the EU must avoid repetition of the embarrassing political and legal setback it suffered when the European Court of Justice overturned the EU's designation in the so-called "MKO" case.

Information Sharing

6.(C/NF) The Deputy Secretary welcomed these developments. He noted that an anomaly exists in UNSCR 1737 whereby the CEO of a bank had been designated, but the bank itself had not been designated. The Deputy Secretary offered to provide the EU with information on potential designees, to facilitate the EU's fact-based process. The Deputy Secretary asked what kind of information would be useful if the idea was to make designations that could be defended in courts, noted that EU courts do not have processes in place to handle confidential information. Cooper noted that open source information was more useful with respect to defense in potential court challenges but that classified intelligence could be helpful as well. (Note: the EU currently lacks safeguards in judicial proceedings for classified information akin to those contained in the U.S. Classified Information Procedures Act).

Cooper also recommended that information sharing arrangements should be contemplated after the February 12, 2007 GAERC during which presumably the EU legal framework for implementing UNSCR 1737 would be agreed.

EU Process - The North Korea Experience

17. (C/NF) Kimmitt underscored that the United States had placed a great deal of emphasis on multilateral cooperation to resolve both the Iran and DPRK proliferation issues, including close consultations with Member States who would have to implement sanctions. Depsec Kimmitt stressed the importance of putting into place quickly the necessary

authorities for Member States to take action. The United States was disappointed that the EU had not yet created the legal framework required for Member States to implement UNSCRs 1695 and 1718 on North Korea, despite the fact that EU Member States had been directly responsible for drafting the United Nations texts.

8.(C/NF) Kimmitt noted that a deepening nexus of cooperation between Iran and North Korea existed. Furthermore, the bite of financial sanctions in Northeast Asia was driving the North Korea to explore prospects for financial intermediation in Europe. There was also evidence that Ahmedinejad was feeling greater pressure from above and below for Iran's deepening economic woes which were seen to be linked at least indirectly to his confrontational stance on WMD.

Internal EU Problems

19. (C) In response, Solana noted that the EU had 27 different national processes for implementing U.N. Security Council resolutions. Kimmitt took the point, adding that this was part of the reason why the Council's conclusions on Iran the previous day were encouraging. By focusing on "transactions with" individuals and entities covered by the UN sanctions in addition to freezing the assets of the named individuals, the EU was putting into place a legal framework to go beyond the limited list in the UNSCR Annex. He observed that no transactions occur without banks, so the language opens the possibility to focusing on financial institutions in the spirit of UNSCR 1737. Disrupting financial intermediation channels (NOTE: examples include currency transactions; letters of credit; equity-based financing) for individuals and entities that fit the criteria of UNSCR 1737 can be more effective than asset freezes in targeting illicit proliferation activities.

110. (C) Although some Member States were involved in the drafting of UNSCRs involving sanctions, Cooper asserted that the EU itself had not been adequately consulted by the United Nations. Moreover, the delay in crafting an EU-wide legal framework (a political common position and an implementing regulation) to implement the relevant UNSCRs on North Korea was directly related to a dispute between Spain and the UK over the sovereign authority over banks in Gibraltar. Solana asked the Deputy Secretary whether the USG could help break the impasse.

A Request for Patience

BRUSSELS 00000318 003 OF 003

111. (C/NF) Kimmitt highlighted problems with the incomplete nature of the UNSCR 1737 Annex. For example, due to Russia's last minute insistence and EU acquiescence, the Annex listed the head of a major Iranian missile manufacturer, but not the company itself. It was not acceptable for the Russians to be able to limit the EU's ability to take action against that company, as well as its leadership. Solana and Cooper readily acknowledged that the EU needed to go where the facts took it and have the ability to take action. At the same time, they stressed a step-by-step approach in which the EU would begin by laying a foundation of strong implementing regulations to be put into place by the next GAERC meeting in February. Once the foundation was in place, Cooper the EU would have the ability to take broader actions, including acting against additional designees.

112. (C/NF) As the internal EU technical drafting process unfolded over the next few weeks, Cooper asked the United States to take this staged approach into account. Kimmitt agreed that the USG could consider "lowering our profile" while legal texts were prepared. Finally, Cooper defended the text of UNSCR 1737 as a "strong one" and noted that the UN path "should not be abandoned" because he believed that there was more to be squeezed out of the Russians in that venue.

13.(U) This cable has been cleared by Deputy Secretary
Kimmitt.

GRAY

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